

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

SHILO RIGGS,

Plaintiff,

v.

// CIVIL ACTION NO. 1:17CV17
(Judge Keeley)

WILLIAM WYATT and
JANET WYATT,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 16] AND
DENYING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT [DKT. NO. 14]

On February 6, 2017, the pro se plaintiff, Shilo Riggs ("Riggs"), filed a complaint against the defendants, William Wyatt and Janet Wyatt (Dkt. No. 1). Citing diversity and federal question jurisdiction, Riggs claims that the defendants fraudulently "sued [her] with checks they claim [she] signed." Id. at 2. For relief, she seeks \$75,000 and an injunction ordering the defendants "to pay the other people they've sued" and providing that Janet Wyatt may no longer practice as a certified public accountant. Id. at 3. Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to the Honorable Michael J. Aloï, United States Magistrate Judge (Dkt. No. 4).

The defendants were served with summonses on April 17, 2017, but they failed to plead or otherwise defend the action within 21 days. On June 1, 2017, at Magistrate Judge Aloï's direction, the Clerk entered default against the defendants pursuant to Fed. R. Civ. P. 55(a) (Dkt. Nos. 10; 11). On June 16, 2017, Riggs moved for

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default judgment pursuant to Fed. R. Civ. P. 55(b), requesting that she "be granted the \$75,000 and that the defendants can no longer file taxes for other people" (Dkt. No. 14).

On August 31, 2017, Magistrate Judge Aloï entered a Report and Recommendation ("R&R") recommending that the Court deny Riggs's motion for default judgment without prejudice (Dkt. No. 16). Although defaulting defendants are deemed to admit the factual allegations of a complaint, a plaintiff is not entitled to default judgment unless the Court determines that the well-pleaded allegations support the relief sought. Joe Hand Promotions, Inc. v. Wing Spot Chicken & Waffles, Inc., 920 F. Supp. 2d 659, 665 (E.D.Va. 2013). Reasoning that Riggs's complaint fails to establish subject matter jurisdiction or a clear cause of action, Magistrate Judge Aloï concluded that its allegations are insufficient to warrant default judgment and recommended that the Court deny Riggs's motion (Dkt. No. 16 at 4).

The R&R also informed the parties of their right to file "written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." Id. at 5. It further warned that the failure to do so may result in waiver of the right to appeal. Id. Despite receiving

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the R&R on September 2, 2017, Riggs has not filed any objections to the recommendations.

"The Court will review de novo any portions of the magistrate judge's Report and Recommendation to which a specific objection is made . . . and the Court may adopt, without explanation, any of the magistrate judge's recommendations to which the prisoner does not object." Dellacirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Failure to file specific objections waives appellate review of both factual and legal questions. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984); see also Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991).

Having received no objections to the R&R, the Court has no duty to conduct a de novo review of Magistrate Judge Aloï's findings. Furthermore, following a review of the R&R and the record for clear error, the Court adopts the opinion of the Magistrate Judge for the reasons discussed in the R&R (Dkt. No. 16).

In conclusion, the Court:

- 1) **ADOPTS** the R&R (Dkt. No. 16);
- 2) **DENIES WITHOUT PREJUDICE** Riggs's motion for default judgment (Dkt. No. 14).

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It is so **ORDERED**.

The Court directs the Clerk to transmit copies of this Order to all pro se parties of record, certified mail and return receipt requested, at their last known address on the docket.

DATED: October 4, 2017

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE